MONTANA LEGISLATIVE HISTORY

Chapter 260 19 83

Bill H _____ S 242 Original bill & history ____C

| H. Committee on Taxation | | | S. Committee on Taxation | | |
|---|---|---|---|---|---|
| Hearing Date(s) Mar 10 | ✓ | C | Hearing Date(s) Feb 03 | ✓ | C |
| | | C | Feb 12 | ✓ | C |
| | | C | | | C |
| | | C | | | C |
| Date Out | | C | | | |

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Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

TRANSMITTED TO HOUSE: 2/5/83
REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES: 02/07/83
HEARING: 3/2/83
REPORT: 03/02/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/04/83, BE CONCURRED IN AYES: 87; NAYS: 3
3RD READING: 03/07/83, BE CONCURRED IN AYES: 86; NAYS: 9

RETURNED TO SENATE WITH AMENDMENTS: 3/8/83
2ND READING: 03/09/83 AYES: 50; NAYS: 0
3RD READING: 03/10/83 AYES: 48; NAYS: 0

TRANSMITTED TO GOVERNOR: 03/18/83
SIGNED: 03/22/83, CHAPTER 161

**SB 241** -- LEE, FABREGA, KOLSTAD, ET AL. -- TO GENERALLY REVISE THE TAX CREDIT AVAILABLE FOR NEW OR EXPANDING INDUSTRY; ... AND PROVIDING AN APPLICABILITY DATE.

INTRODUCED: 01/21/83
REFERRED TO COMMITTEE ON TAXATION: 01/21/83
HEARING: 2/8/83
REPORT: 03/01/83, DO PASS, AS AMENDED
2ND READING: 03/03/83 AYES: 38; NAYS: 11
3RD READING: 03/04/83 AYES: 39; NAYS: 7

TRANSMITTED TO HOUSE: 3/4/83
REFERRED TO COMMITTEE ON TAXATION: 03/07/83
HEARING: 3/14/83
DIED IN HOUSE COMMITTEE

**SB 242** -- GAGE, TOWE -- TO GENERALLY REVISE AND CLARIFY LAWS PERTAINING TO INCOME TAXATION OF ESTATES, PROPERTY HELD IN TRUST, AND BENEFICIARIES OF ESTATES OR TRUSTS; PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.
BY REQUEST OF: THE REVENUE OVERSIGHT COMMITTEE

INTRODUCED: 01/21/83
REFERRED TO COMMITTEE ON TAXATION: 01/21/83
HEARING: 2/3/83
REPORT: 02/17/83, DO PASS, AS AMENDED
2ND READING: 02/19/83 AYES: 48; NAYS: 0
3RD READING: 02/22/83 AYES: 49; NAYS: 0

TRANSMITTED TO HOUSE: 02/22/83
REFERRED TO COMMITTEE ON TAXATION: 02/28/83
HEARING: 3/10/83
REPORT: 03/11/83, BE CONCURRED IN
2ND READING: 03/14/83, BE CONCURRED IN AS AMENDED AYES: 91; NAYS: 0
3RD READING: 03/15/83, BE CONCURRED IN AYES: 95; NAYS: 0

RETURNED TO SENATE WITH AMENDMENTS: 3/16/83
2ND READING: 03/17/83 AYES: 48; NAYS: 0
3RD READING: 3/18/83 AYES: 50; NAYS: 0

TRANSMITTED TO GOVERNOR: 03/24/83
SIGNED: 3/30/83, CHAPTER 260

**SB 243** -- TOWE -- TO PROVIDE FOR A 5-YEAR STATUTE OF LIMITATIONS FOR TAXES ON CENTRALLY ASSESSED PROPERTY, COAL SEVERANCE TAXES, OIL AND GAS SEVERANCE TAXES, MINING

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 3, 1983

The eighteenth meeting of the Taxation Committee was called to order at 9 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 242: Senator Gage, the sponsor of the bill, said the amendments in this bill make it more understandable by enumerating in new section 2 the kinds of income that will be taxable in estates and trusts and enumerating in new section 3 the deductions allowed. It also plugs a loophole in the existing statutes where administrative expenses can be deducted for both inheritance tax purposes and estates and trust income tax purposes. The proposed change will allow the deduction for either estates and trust tax purposes or for inheritance tax purposes, but not for both. This conforms to federal law. See Exhibit A.

PROPONENTS

Ken Morrison, administrator of the Income Tax Division of the Department of Revenue, said they have received information from tax practitioners that they would like to see a separate fiduciary income tax return in Montana. The bill doesn't change the revenue; it just clarifies what is in the codes now.

OPPONENTS

There were no opponents to SB 242.

Questions from the committee were called for.

Senator Norman remarked that there was no fiscal note and asked if it was safe to say we don't need one. Mr. Morrison stated that the changes are so minor that the bill did not require a fiscal note.

Senator Towe said that the IRS allows only a $100 exemption on complex trusts. He wondered if that could be changed for Montana. Mr. Morrison stated that it was okay with him to change it to $940, which is the personal exemption this year on individual income tax returns.

The hearing was closed on SB 242.

Senate Taxation Committe
Exhibit A
February 3, 1983
SB 242

COMMENTS ON THE BILL TO REVISE THE LAWS CONCERNING THE INCOME TAXATION OF ESTATES AND TRUSTS.

This bill is a direct result of requests from accountants and other tax practitioners for more specific income tax laws for beneficiaries and fiduciaries of estates or trusts.

The current tax on beneficiaries or fiduciaries of estates or trusts, 15-30-135, MCA, has remained virtually unchanged since it was enacted in 1933. The statute has become increasingly out of date. In particular, as federal tax laws and regulations concerning the income taxation of trusts and estates has become more refined, the state's approach has diverged more and more from federal practice. The federal government, for example, provides a special income tax form tailored to the particular circumstances of estates and trusts. The state law, in effect, requires the continued use of the regular individual income tax return for these specialized financial entities.

The bill would generally clarify the income tax treatment of estates and trusts. It would update the statute by incorporating the current legal and accounting terms and arrangements generally associated with estates and trusts. Finally, it would conform the law more closely to the federal law.

With this bill, a statutory base would exist for the Department to provide a special income tax form for estates and trusts. The form would be similar to the federal form and should make the filing of a fiduciary return easier.

The proposal is primarily a housekeeping measure and would not significantly affect the amount of revenue collected.

SPECIAL NOTE ON MATERIALS AVAILABLE FOR HANDOUT:

Attached is a comparison of the existing law and the proposed bill for taxation of estates and trusts. A comparison between the provisions of the proposed bill and the federal law is also provided.

"TAXATION OF ESTATES AND TRUSTS"

Proposed Changes

th the proposed revision to Section 15-30-135, MCA, "Tax on beneficiaries fiduciaries of Estates or Trusts," there would be no significant change in the amount of taxes collected. The following changes would result:

| | EXISTING LAWS | PROPOSED REVISION |
|---|---|---|
| 1. | Tax Return<br>The tax on Estates and Trusts is presently figured using the Montana Individual Income Tax form. | Tax Return<br>Under the proposal a separate form would be specifically designed for Estates and Trusts. The form would correspond to the federal form. |
| 2. | Computation of Income<br>The computation of income is presently computed the same as the Montana individual income tax. | Computation of Income<br>Under the proposal the computation of taxable income is the same as for individuals except for the variances listed in #3 and #4. |
| 3. | Personal Exemptions<br>Presently the Estate or Trust is allowed one personal exemption of $880.00. | Personal Exemptions<br>Under the proposal the exemption for an Estate or Trust would be broken down into $600 for an Estate, $300 for a Simple Trust and $100 for a Complex Trust. This is is conformance with federal law. |
| 4. | Administrative Expenses<br>The present law allows the deduction of Administrative Expenses for both Inheritance tax purposes and Estates and Trusts Income Tax purposes. | Administrative Expenses<br>Under the proposal the Administrative Expenses are allowed for either Estates and Trusts tax purposes or Inheritance tax purposes, but not for both. This conforms to federal law. |

# Proposed Bill for Taxation of Estates and Trusts

The proposed bill differs from federal law on the taxation of estates and trusts in the following ways:

| | Federal Law | Proposed Bill |
|---|---|---|
| *Federal Income Tax | Not Deductible | Deductible |
| *Federal Income Tax Refund | Not Reportable Income | Reportable Income |
| *Montana Income Tax | Deductible | Not Deductible |
| *Montana Income Tax Refund | Reportable | Not Reportable |
| *Teachers Retirement | Partially Taxed | Not Taxed |
| *Montana Public Employees | Partially Taxed | Not Taxed |
| *Montana Highway Patrol | Partially Taxed | Not Taxed |
| *Policeman's Retirement | Partially Taxed | Not Taxed |
| *Federal Employees Retirement | Taxed | $3,600 Not Taxed<br>$360 Exempt |
| *Private Retirement | Partially Taxed | Exempt |
| *Interest Exclusion-Elderly | Not Exempt | Income, Gains, etc. |
| *Regular Mont. Corporation electing SUB "S" | Not Taxable | taxable |
| 60% Capital Gain Deduction | Not Allowed | Allowable |

*This treatment conforms with state and federal individual income tax laws.

Senator Elliott asked what the definition of "active guard" was. John F. Walsh, military personnel management officer for the Guard, explained the difference between active national guard, inactive guard and retired guardsmen. The plates, he said, will be available to active guardsmen only.

Senator Brown moved that SB 330 DO PASS AS AMENDED. The motion was seconded and passed unanimously.

RECONSIDERATION OF SENATE BILL 108: Senator Turnage moved that the committee reconsider its action taken on SB 108. The motion was seconded and carried unanimously.

Senator Turnage then moved that Cort Harrington, the committee's staff attorney, prepare amendments in proper form with the view of just striking the new material at page 2, line 17. The motion was seconded and passed unanimously.

Senator Turnage then moved that SB 108, as further amended, DO PASS. The motion was seconded and passed, with Senator Elliott voting no.

DISPOSITION OF SENATE BILL 242: At the time SB 242 was heard, Senator Towe questioned why the exemption had to be $100, which is what the federal exemption is. The Department of Revenue had stated that they would have no objection to the exemption for both estates and trusts being raised to the amount of personal exemption an individual is allowed on his or her individual income tax return.

Senator Turnage moved that the following amendment be adopted:

Page 10, line 4.
Following: "(2)"
Strike: remainder of line 4 through line 8
Insert: "The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and 15-30-112(8)

The motion was seconded. Dan Bucks, representing the Department of Revenue, asked if it was the intent that it be for an estate or trust to have a single exemption allowed, and if the motion was being made based on that assumption, the Department would be agreeable to it. The committee stated that that was the intent.

A vote was taken on the amendments, and the motion passed unanimously.

Senator Gage then moved that SB 242 DO PASS AS AMENDED. The motion was seconded and passed unanimously.

CONSIDERATION OF SENATE BILL 288: Senator Harold Dover, Senate District 25, was the sponsor of this bill. He introduced John Braunbeck from Montana Intermountain Oil Marketers Association.

# STANDING COMMITTEE REPORT

February 17 19 83

MR. PRESIDENT

We, your committee on taxation

having had under consideration Senate Bill No. 242

Respectfully report as follows: That Senate Bill No. 242

introduced bill, be amended as follows:

1. Page 10, line 4.
Following: "(2)"
Strike: remainder of line 4 through line 8
Insert: "The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and 15-30-112(8)."

And, as so amended

DO PASS

Pat M. Goodover Chairman.

STATE PUB. CO.
Helena, Mont.

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE
March 10, 1983

The meeting was called to order at 8:00 a.m. by Chairman Yardley. Roll call was taken and all committee members were present.

Testimony was heard on HJR 31, HB 844, SB 108 and SB 242 during this meeting.

Executive action was taken on HB 31, HB 380, HB 446, HB 582, HB 717, HB 870, SB 108 and SB 242.

SENATE BILL 242

SENATOR DELWYN GAGE, District 7, said SB 242 is an act to generally revise and clarify laws pertaining to income taxation of estates, property held in trust, and beneficiaries of estates or trusts. This bill puts the state laws in line with the federal laws.

Proponents

KEN MORRISON, representing the Department of Revenue, said SB 242 is not intended to make any drastic changes but it does clear up the law. With this bill, we will be able to have a separate fiduciary return in Montana which is typical to other states.

There were no opponents testifying on SB 242.

SENATOR GAGE closed his presentation of SB 242.

House Bill 844

REPRESENTATIVE JACK SANDS, District 68, said HB 844 is an act authorizing the Department of Revenue to conduct a study of the personal property tax system. The intent of the bill is to centralize property assessment in the state office. The bill would authorize a study of this assessment problem and the Department of Revenue would then report back to the legislature in two years. There would be an appropriation of $100,000 for this study but Representative Sands said he thought that was way too much. Rather than sending the bill back for a rewrite, he said he thought it would be easier to give the bill to the committee and ask them to change that amount.

REPRESENTATIVE SANDS said it is feasible to do away with the office of the county assessor in each county and centralize those duties in the state office.

The current cost of administering the personal property tax system is $4.7 million in comparison with $1.9 million to administer the

adopted and implemented, the Revenue Oversight Committee should seek input from farmers, manufacturers, assessors, and anyone else to make a proper study of the inequities.

ELLEN FEAVER, Director of the Department of Revenue, said many states have gone away from the classification system for property tax purposes. Lawsuits that have been filed against the Department of Revenue represent the need for a study on the classification system.

There were no opponents testifying on HJR 31.

Questions were heard from the committee.

REPRESENTATIVE ZABROCKI said there is a movement to abandon all of these studies and put them into a legislative management council. How would that affect this resolution? Representative Williams said he is not familiar with that proposal so he could not speak to it.

REPRESENTATIVE WILLIAMS, in closing, said the Revenue Oversight Committee is the committee to direct this study. They, themselves, cannot do all the necessary work but with help from others with expertise, this study can be done and needs to be done. Hopefully by the next legislature, we can come back with a workable tax program.

REPRESENTATIVE WILLIAMS said, in regard to the budget for this study, that Jim Oppedahl, legislative researcher from the Legislative Council, has been trying to put some figures together and has not completed that task yet. That task should be completed within a couple of days and they will present that information to the legislature.

The hearing on HJR 31 was closed.

CHAIRMAN YARDLEY called the meeting into Executive Session at this time.

EXECUTIVE SESSION

Senate Bill 108

REPRESENTATIVE DOZIER moved SB 108 BE CONCURRED IN.

The motion was voted on and PASSED unanimously.

REPRESENTATIVE KEENAN was assigned to carry the bill in the House.

Senate Bill 242

REPRESENTATIVE HARRINGTON moved SB 242 BE CONCURRED IN.

The motion was voted on and PASSED unanimously.

# STANDING COMMITTEE REPORT

March 10, 19 83

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 24

Third reading copy ( Blue color )

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARI LAWS PERTAINING TO INCOME TAXATION OF ESTATES, PROPERTY HELD IN TRUST, AND BENEFICIARIES OF ESTATES OR TRUSTS; AMENDING SECTION 15-30-135, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

Respectfully report as follows: That SENATE Bill No. 242

~~XXXXXX~~ BE CONCURRED IN

DAN YARDLEY, Chairman.

STATE PUB. CO.
Helena, Mont.